

<sup>2</sup> 5 U.S.C. § 8101 *et seq.*

## **ISSUE**

The issue is whether OWCP has met its burden of proof to terminate appellant's entitlement to wage-loss compensation and medical benefits, effective October 18, 2021, as she no longer had disability or residuals causally related to her accepted May 8, 2020 employment injury.

## **FACTUAL HISTORY**

On May 18, 2020 appellant, then a 53-year-old mail carrier, filed a traumatic injury claim (Form CA-1) alleging that on May 8, 2020 she injured her low back while in the performance of duty. She explained that she fell to the floor when a coworker pulled a stool out from under her, which caused pain in her back radiating down to her right leg. Appellant stopped work on the date of injury. On February 2, 2021 OWCP accepted the claim for sprain of muscle, fascia, and tendon of the lower back.

On June 20, 2021 OWCP received a letter from counsel indicating that appellant had filed a claim for wage-loss compensation (Form CA-7) and had not yet received a response. On June 23, 2021 it responded and advised that it had not received a Form CA-7 from her and that the employing establishment reported that she had submitted a March 17, 2021 Form CA-7, but it was returned for corrections.

On June 30, 2021 OWCP referred appellant, together with a statement of accepted facts, the medical record, and a series of questions, to Dr. Leon Sultan, a Board-certified orthopedic surgeon, for a second opinion examination to determine whether she continued to suffer from residuals or disability due to her accepted employment injury.

Dr. Sultan, in a July 20, 2021 report, reviewed appellant's history of injury and medical records. He reported unremarkable findings on physical examination of her lower back. Dr. Sultan opined that appellant did not suffer from any residuals of her employment injury and required no further medical treatment. He further opined that she had no current or concurrent disability causally related to the accepted May 8, 2020 employment injury and that she could perform her date-of-injury mail carrier position with no restrictions on a full-time basis. Dr. Sultan explained that appellant's "lower back condition reached a fixed and stable state (maximal medical improvement) in regard to [appellant's] lower back." He concluded that her prognosis was favorable. In an accompanying work capacity evaluation (Form OWCP-5c), Dr. Sultan reiterated his opinion that appellant could return to full-time work with no restrictions.

On August 16, 2021 OWCP issued a notice proposing to terminate appellant's entitlement to wage-loss compensation and medical benefits as she no longer had disability or residuals causally related to her accepted May 8, 2020 employment injury based on Dr. Sultan's report. It afforded her 30 days to respond.

Thereafter, appellant filed an October 7, 2021 Form CA-7 claiming disability from work for the period May 9, 2020 through October 1, 2021.

By decision dated October 18, 2021, OWCP terminated appellant's entitlement to wage-loss compensation and medical benefits effective that date, finding that the weight of the medical evidence rested with the report of Dr. Sultan.

### **LEGAL PRECEDENT**

Once OWCP accepts a claim and pays compensation, it has the burden of proof to justify termination or modification of an employee's entitlement to benefits.<sup>3</sup> After it has determined that, an employee has disability causally related to his or her federal employment, OWCP may not terminate entitlement to compensation without establishing that the disability has ceased or that it is no longer related to the employment.<sup>4</sup> Its burden of proof includes the necessity of furnishing rationalized medical opinion evidence based on a proper factual and medical background.<sup>5</sup>

The right to medical benefits for an accepted condition is not limited to the period of entitlement for disability compensation.<sup>6</sup> To terminate authorization for medical treatment, OWCP must establish that appellant no longer has residuals of an employment-related condition which require further medical treatment.<sup>7</sup>

### **ANALYSIS**

The Board finds that OWCP has met its burden of proof to terminate entitlement to appellant's wage-loss compensation and medical benefits, effective October 18, 2021, as she no longer had disability or residuals causally related to her accepted May 8, 2020 employment injury.

In his July 22, 2021 report, Dr. Sultan reviewed the medical evidence of record and described appellant's May 8, 2020 employment injury. He indicated that, on physical examination, she had no objective findings related to her accepted employment injury. Dr. Sultan explained that appellant's "lower back condition reached a fixed and stable state (maximal medical improvement) in regard to her lower back." He concluded that she had no residuals or disability due to the accepted work-related condition, that she could return to her full-time mail carrier position without restrictions, and that there was no need for further medical treatment.

The Board has reviewed the opinion of Dr. Sultan and finds that he has based his opinion on a proper factual and medical history and physical examination findings and provided medical

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<sup>3</sup> See *R.P.*, Docket No. 17-1133 (issued January 18, 2018); *S.F.*, 59 ECAB 642 (2008); *Kelly Y. Simpson*, 57 ECAB 197 (2005); *Paul L. Stewart*, 54 ECAB 824 (2003).

<sup>4</sup> See *R.P.*, *id.*; *Jason C. Armstrong*, 40 ECAB 907 (1989); *Charles E. Minnis*, 40 ECAB 708 (1989); *Vivien L. Minor*, 37 ECAB 541 (1986).

<sup>5</sup> *K.W.*, Docket No. 19-1224 (issued November 15, 2019); see *M.C.*, Docket No. 18-1374 (issued April 23, 2019); *Del K. Rykert*, 40 ECAB 284, 295-96 (1988).

<sup>6</sup> *A.G.*, Docket No. 19-0220 (issued August 1, 2019); *A.P.*, Docket No. 08-1822 (issued August 5, 2009); *T.P.*, 58 ECAB 524 (2007); *Kathryn E. Demarsh*, 56 ECAB 677 (2005); *Furman G. Peake*, 41 ECAB 361, 364 (1990).

<sup>7</sup> *K.W.*, *supra* note 5; see *A.G.*, *id.*; *James F. Weikel*, 54 ECAB 660 (2003); *Pamela K. Guesford*, 53 ECAB 727 (2002); *Furman G. Peake*, *id.*

rationale for his opinion. The Board finds that it has reliability, probative value, and convincing quality with respect to its conclusions regarding the relevant issue of work-related disability.<sup>8</sup> The case record does not contain probative medical evidence demonstrating that appellant was unable to work on or after October 18, 2021 due to her May 8, 2020 employment injury. Thus, OWCP properly terminated her wage-loss compensation and medical benefits, effective October 18, 2021.

### **CONCLUSION**

The Board finds that OWCP has met its burden of proof to terminate appellant's entitlement to wage-loss compensation and medical benefits, effective October 18, 2021, as she no longer had disability or residuals causally related to her accepted May 8, 2020 employment injury.

### **ORDER**

**IT IS HEREBY ORDERED THAT** the October 18, 2021 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: February 15, 2023  
Washington, DC

Alec J. Koromilas, Chief Judge  
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge  
Employees' Compensation Appeals Board

James D. McGinley, Alternate Judge  
Employees' Compensation Appeals Board

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<sup>8</sup> See *W.C.*, Docket No. 18-1386 (issued January 22, 2019); *D.W.*, Docket No. 18-0123 (issued October 4, 2018).